

Serial No. 09/863,101

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

1.-20. Cancelled

21. (currently amended) A method for identifying and treating a patient disposed to respond favorably to a HER2 antibody for treating breast cancer, which method comprises detecting her2 gene amplification in tumor cells in a tissue sample from the patient and treating the patient with her2 gene amplification with the HER2 antibody in an amount effective to treat the breast cancer, wherein the patient's tumor cells express HER2 at a 0 or 1+ level by immunohistochemistry.

22-24. Cancelled

25. (currently amended) The method of claim 21 wherein the HER2 antibody is huMab4D5-8 ~~rhumaB 4D5 (Herceptin®)~~.

26. (previously presented) The method of claim 21 wherein Her2 gene amplification is detected by detecting fluorescence of a fluorescent-labeled nucleic acid probe hybridized to the gene.